

SOUTHWESTERN ELECTRIC POWER COMPANY
SCHEDULE Q-8.9
RESIDENTIAL BILL COMPARISONS

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Present GS Rate w/Demand		Prices					
		Billing Unit Level					
kWh		2,000	2,500	5,000	7,500	10,000	
kW		10 00	12 50	25 00	37 50	50 00	
Load Factor		27 40%	27 40%	27 40%	27 40%	27 40%	
Customer Charge		\$11 59	\$11 59	\$11 59	\$11 59	\$11 59	
0-10 kW		\$0 00	\$0 00	\$0 00	\$0 00	\$0 00	
over 10 kW		\$4 87	\$0 00	\$12 18	\$73 05	\$133 93	\$194 80
all kWh		\$0 061302	\$122 60	\$153 26	\$306 51	\$459 77	\$613 02
Total Monthly Present Base Bill			\$134 19	\$177 03	\$391 15	\$605 29	\$819 41
Rider DCRF		\$0 001825	\$3 65	\$4 56	\$9 13	\$13 69	\$18 25
Rider TCRF		\$0 001981	\$3 96	\$4 95	\$9 91	\$14 86	\$19 81
Rider EECRF		\$0 000971	\$1 94	\$2 43	\$4 86	\$7 28	\$9 71
Rate Case Expense		\$0 000050	\$0 10	\$0 13	\$0 25	\$0 38	\$0 50
Total Present Riders			\$9 65	\$12 07	\$24 14	\$36 20	\$48 27
Average Rate Year Fuel Rate		\$0 0311087	\$ 62 22	\$ 77 77	\$ 155 54	\$ 233 31	\$ 311 09
Total Present Bill incl Fuel and Riders			\$ 206 06	\$ 266 87	\$ 570 83	\$ 874 81	\$ 1,178 77

Proposed GS Rate Demand		Prices					
		Billing Unit Level					
kWh		2,000	2,500	5,000	7,500	10,000	
kW		10 00	12 50	25 00	37 50	50 00	
Load Factor		27 40%	27 40%	27 40%	27 40%	27 40%	
Customer Charge		\$15 00	\$15 00	\$15 00	\$15 00	\$15 00	
All kW		\$2 95	\$29 50	\$36 88	\$73 75	\$110 63	\$147 50
all kWh		\$0 075419	\$150 84	\$188 55	\$377 10	\$565 64	\$754 19
Total Monthly Proposed Base Bill			\$195 34	\$240 43	\$465 85	\$691 27	\$916 69
Rider DCRF		\$ -	\$0 00	\$0 00	\$0 00	\$0 00	\$0 00
Rider TCRF		\$ -	\$0 00	\$0 00	\$0 00	\$0 00	\$0 00
Rider EECRF		\$0 000971	\$1 94	\$2 43	\$4 86	\$7 28	\$9 71
Rate Case Expense		\$0 000050	\$0 10	\$0 13	\$0 25	\$0 38	\$0 50
Total Proposed Riders			\$2 04	\$2 55	\$5 11	\$7 66	\$10 21
Average Rate Year Fuel Rate		\$0 0311087	\$ 62 22	\$ 77 77	\$ 155 54	\$ 233 31	\$ 311 09
Total Proposed Bill incl Fuel and Riders			\$ 259 60	\$ 320 75	\$ 626 50	\$ 932 24	\$ 1,237 99
Present Monthly Base Bill			\$134 19	\$177 03	\$391 15	\$605 29	\$819 41
Proposed Monthly Base Bill			\$195 34	\$240 43	\$465 85	\$691 27	\$916 69
\$ Base Change			\$61 15	\$63 40	\$74 70	\$85 98	\$97 28
% Base Change			45 57%	35 81%	19 10%	14 20%	11 87%
\$ Change Total Bill incl Fuel and Riders			\$ 53 54	\$ 53 89	\$ 55 67	\$ 57 43	\$ 59 22
% Change Total Bill incl Fuel and Riders			25 98%	20 19%	9 75%	6 57%	5 02%

Present GS Rate w/Demand		Prices					
		Billing Unit Level					
kWh		2,000	2,500	5,000	7,500	10,000	
kW		10 00	12 50	25 00	37 50	50 00	
Load Factor		27 40%	27 40%	27 40%	27 40%	27 40%	
Customer Charge		\$11 59	\$11 59	\$11 59	\$11 59	\$11 59	
0-10 kW		\$0 00	\$0 00	\$0 00	\$0 00	\$0 00	
over 10 kW		\$4 87	\$0 00	\$12 18	\$73 05	\$133 93	\$194 80
all kWh		\$0 061302	\$122 60	\$153 26	\$306 51	\$459 77	\$613 02
Total Monthly Present Base Bill			\$134 19	\$177 03	\$391 15	\$605 29	\$819 41
Rider DCRF		\$0 001825	\$3 65	\$4 56	\$9 13	\$13 69	\$18 25
Rider TCRF		\$0 001981	\$3 96	\$4 95	\$9 91	\$14 86	\$19 81
Rider EECRF		\$0 000971	\$1 94	\$2 43	\$4 86	\$7 28	\$9 71
Rate Case Expense		\$0 000050	\$0 10	\$0 13	\$0 25	\$0 38	\$0 50
Total Present Riders			\$9 65	\$12 07	\$24 14	\$36 20	\$48 27
Average Rate Year Fuel Rate		\$0 0311087	\$ 62 22	\$ 77 77	\$ 155 54	\$ 233 31	\$ 311 09
Total Present Bill incl Fuel and Riders			\$ 206 06	\$ 266 87	\$ 570 83	\$ 874 81	\$ 1,178 77

Proposed GS Energy		Prices					
		Billing Unit Level					
kWh		2,000	2,500	5,000	7,500	10,000	
kW		10 00	12 50	25 00	37 50	50 00	
Load Factor		27 40%	27 40%	27 40%	27 40%	27 40%	
Customer Charge		\$15 00	\$15 00	\$15 00	\$15 00	\$15 00	
over 10 kW		\$0 00	\$0 00	\$7 38	\$44 25	\$81 13	\$118 00
all kWh		\$0 089950	\$179 90	\$224 88	\$449 75	\$674 63	\$899 50
Total Monthly Proposed Base Bill			\$194 90	\$247 26	\$509 00	\$770 76	\$1,032 50
Rider DCRF		\$ -	\$0 00	\$0 00	\$0 00	\$0 00	\$0 00
Rider TCRF		\$ -	\$0 00	\$0 00	\$0 00	\$0 00	\$0 00
Rider EECRF		\$0 000971	\$1 94	\$2 43	\$4 86	\$7 28	\$9 71
Rate Case Expense		\$0 000050	\$0 10	\$0 13	\$0 25	\$0 38	\$0 50
Total Proposed Riders			\$2 04	\$2 55	\$5 11	\$7 66	\$10 21
Average Rate Year Fuel Rate		\$0 0311087	\$ 62 22	\$ 77 77	\$ 155 54	\$ 233 31	\$ 311 09
Total Proposed Bill incl Fuel and Riders			\$ 259 16	\$ 327 58	\$ 669 65	\$ 1,011 73	\$ 1,353 80
Present Monthly Base Bill			\$134 19	\$177 03	\$391 15	\$605 29	\$819 41
Proposed Monthly Base Bill			\$194 90	\$247 26	\$509 00	\$770 76	\$1,032 50
\$ Base Change			\$60 71	\$70 23	\$117 85	\$165 47	\$213 09
% Base Change			45 24%	39 67%	30 13%	27 34%	26 01%
\$ Change Total Bill incl Fuel and Riders			\$ 53 10	\$ 60 72	\$ 98 82	\$ 136 93	\$ 175 03
% Change Total Bill incl Fuel and Riders			25 77%	22 75%	17 31%	15 65%	14 85%

SOUTHWESTERN ELECTRIC POWER COMPANY
SCHEDULE Q-8.9
RESIDENTIAL BILL COMPARISONS

Present LP Sec Rate	Prices	Billing Unit Level				
		10,000	50,000	100,000	200,000	335,000
kWh		40	150	300	600	1,000
kW		34 25%	45 66%	45 66%	45 66%	45 89%
Load Factor						
Demand Rate	\$9 38	\$375 20	\$1,407 00	\$2,814 00	\$5,628 00	\$9,380 00
kWh Charge	\$0 016155	\$161 55	\$807 75	\$1,615 50	\$3,231 00	\$5,411 93
Total Monthly Present Base Bill		\$536 75	\$2,214 75	\$4,429 50	\$8,859 00	\$14,791 93
Rider DCRF	\$0 274708	\$10 99	\$41 21	\$82 41	\$164 82	\$274 71
Rider TCRF	\$0 539908	\$21 60	\$80 99	\$161 97	\$323 94	\$539 91
Rider EECRF	\$0 000755	\$7 55	\$37 75	\$75 50	\$151 00	\$252 93
Rate Case Expense	\$0 000050	\$0 50	\$2 50	\$5 00	\$10 00	\$16 75
Total Present Riders		\$40 63	\$162 44	\$324 88	\$649 77	\$1,084 29
Average Rate Year Fuel Rate	\$0 031151	\$ 311 51	\$ 1,557 55	\$ 3,115 10	\$ 6,230 20	\$ 10,435 59
Total Present Bill incl Fuel and Riders		\$ 888 89	\$ 3,934 74	\$ 7,869 48	\$ 15,738 97	\$ 26,311.80

Proposed LP Sec Rate	Prices	Billing Unit Level				
		10,000	50,000	100,000	200,000	335,000
kWh		40	150	300	600	1,000
kW		34 25%	45 66%	45 66%	45 66%	45 89%
Load Factor						
Demand Rate	\$ 12 48	\$499 20	\$1,872 00	\$3,744 00	\$7,488 00	\$12,480 00
kWh Charge	\$0 022038	\$220 38	\$1,101 90	\$2,203 80	\$4,407 60	\$7,382 73
Total Monthly Proposed Base Bill		\$719 58	\$2,973 90	\$5,947 80	\$11,895 60	\$19,862 73
Rider DCRF	\$ -	\$0 00	\$0 00	\$0 00	\$0 00	\$0 00
Rider TCRF	\$ -	\$0 00	\$0 00	\$0 00	\$0 00	\$0 00
Rider EECRF	\$0 000755	\$7 55	\$37 75	\$75 50	\$151 00	\$252.93
Rate Case Expense	\$0 000050	\$0 50	\$2 50	\$5 00	\$10 00	\$16 75
Total Proposed Riders		\$8 05	\$40 25	\$80 50	\$161 00	\$269 68
Average Rate Year Fuel Rate	\$0 031151	\$ 311 51	\$ 1,557 55	\$ 3,115 10	\$ 6,230 20	\$ 10,435 59
Total Proposed Bill incl Fuel and Riders		\$ 1,039 14	\$ 4,571 70	\$ 9,143 40	\$ 18,286 80	\$ 30,567 99
Present Monthly Base Bill		\$536 75	\$2,214 75	\$4,429 50	\$8,859 00	\$14,791 93
Proposed Monthly Base Bill		\$719 58	\$2,973 90	\$5,947 80	\$11,895 60	\$19,862 73
\$ Base Change		\$182 83	\$759 15	\$1,518 30	\$3,036 60	\$5,070 81
% Base Change		34 06%	34 28%	34 28%	34 28%	34 28%
\$ Change Total Bill incl Fuel and Riders		\$ 150 25	\$ 636 96	\$ 1,273 92	\$ 2,547 83	\$ 4,256 19
% Change Total Bill incl Fuel and Riders		16 90%	16 19%	16 19%	16 19%	16 18%

Note Rate calculation excludes taxes and franchise fees

SOUTHWESTERN ELECTRIC POWER COMPANY
Financial Information (Cooperatives)
For the Test Year Ended March 31, 2020

This information is not applicable to Southwestern Electric Power Company

Schedule R-1 through R-18

On June 9, 2020, in Docket No. 50917, Southwestern Electric Power Company (SWEPCO) filed an application requesting a good cause waiver of the requirement that it file Rate Filing Package (RFP) Schedule S and perform the related audit required by Schedule S.¹ SWEPCO served a copy of its application on all parties to its most recent base rate proceeding, Docket No. 46449.² Cities Advocating Reasonable Deregulation (CARD) intervened in support of the requested waiver and, on July 31, 2020, Commission Staff recommended that SWEPCO's application be approved.³ SWEPCO and Commission Staff filed an agreed proposed notice of approval on August 12, 2020.⁴ No objection to SWEPCO's waiver application has been raised.

¹ *Application of Southwestern Electric Power Company for Waiver of Rate Filing Package Schedule S*, Docket No. 50917, Application (Jun. 9, 2020).

² Docket No. 50917, Proof of Notice Affidavit (Jul. 6, 2020).

³ *Id.*, Commission Staff's Recommendation on Final Disposition at 1 (Jul. 31, 2020).

⁴ *Id.*, Agreed Proposed Notice of Approval (Aug. 12, 2020).

NOTICE OF RATE CHANGE REQUEST

On October 13, 2020, Southwestern Electric Power Company (SWEPCO or Company) filed a Petition and Statement of Intent to Change Rates (the Petition) with the Public Utility Commission of Texas (PUC or the Commission) in Docket No. _____, and with those municipal authorities in its Texas service territory that have original jurisdiction over SWEPCO's electric rates. This notice is being published in accordance with Section 36.103 of the Public Utility Regulatory Act and Commission Procedural Rule 16 Tex. Admin. Code § 22.51(a)(1).

SWEPCO has approximately 187,000 Texas retail customers. All such customers and all classes of customers will be affected by the relief requested in SWEPCO's Petition.

SWEPCO's request to change its rates is based on the financial results for a 12-month test year ending on March 31, 2020. SWEPCO's Petition seeks an overall increase of \$105,026,238, an increase of 30.3% over adjusted Texas retail test year base rate revenues exclusive of fuel and rider revenues. SWEPCO's proposed revenue increase will be offset by a \$14,826,502 decrease in annualized Transmission Cost Recovery Factor (TCRF) and Distribution Cost Recovery Factor (DCRF) revenue. Thus, the net proposed Texas retail revenue increase is \$90,199,736, an increase of 26.0% over adjusted Texas retail test year base rate revenues exclusive of fuel and rider revenues. The overall impact of the rate change, considering both fuel and non-fuel revenues, is a 15.6% increase. The impact of the rate change on various customer classes will vary from the overall impact described in this notice, as shown in the table below. In addition, SWEPCO is seeking recovery of the reasonable rate-case expenses, including expenses paid to reimburse intervening municipalities, that it incurs in this case and those rate-case expenses incurred in three prior dockets that have yet to be recovered.

A Residential Service customer using 1,000 kilowatt-hours of energy per month will see an increase in their total bill (including fuel costs and rate riders) of \$15.71 per month, an increase of approximately 15.0%.

The following table presents the percentage annual revenue increases, by type of service, under the proposed rates in this proceeding:

SWEPSCO Texas Proposed Base Rate Increase			
MAJOR RATE CLASS	Change in Non-Fuel Revenue (\$) *	Change in Non-Fuel Revenue (%) **	Change in Total Bill (%) ***
RESIDENTIAL	\$ 34,924,204	23.75%	15.64%
GENERAL SERVICE	6,629,030	28.19%	20.61%
LIGHTING & POWER	35,573,447	27.55%	16.26%
COTTON GIN	69,427	26.14%	15.74%
TOTAL COMMERCIAL	42,271,904	28.80%	16.82%
INDUSTRIAL	11,738,370	27.98%	13.28%
TOTAL COMM & INDUSTRIAL	54,010,274	28.61%	15.90%
MUNICIPAL	367,417	9.35%	5.35%
MUNICIPAL LIGHTING	222,068	9.67%	6.88%
TOTAL MUNICIPAL	589,485	9.47%	5.84%
LIGHTING	674,745	15.18%	10.57%
* Base rate revenue net of transmission and distribution cost recovery revenues.			
** Transmission and distribution cost recovery factor revenue recovered in existing base rates will be reset to zero with this filing.			
*** Bill impact includes base rate revenue plus fuel factor, energy efficiency cost recovery factor, rate-case expense surcharge, transmission cost recovery revenue, and distribution cost recovery revenue.			

SWEPSCO has proposed that its requested rate change become effective 35 days after the filing of the Petition and Statement of Intent. The proposed effective date is subject to suspension and extension by actions that may be taken by the Commission and other regulatory authorities.

SWEPCO is proposing revisions to most tariffs and schedules. In addition, in order to facilitate future TCRF, DCRF, and Generation Cost Recovery Rider (GCRR) filings pursuant to 16 TAC §§ 25.239, 25.243, and 25.248, respectively, SWEPCO requests that the Commission: (1) set the Company's current TCRF and DCRF to zero; and (2) establish in this docket the baseline values consisting of the inputs to the calculations that will be used to calculate SWEPCO's TCRF, DCRF, and GCRR in future dockets.

Persons with questions or who want more information on this Petition may contact SWEPCO at 428 Travis Street, Shreveport, Louisiana 71101, or call toll-free at (888) 216-3523 during normal business hours. A complete copy of the Petition and related filings is available for inspection at the address listed in the previous sentence.

Persons who wish to intervene in or comment upon these proceedings should notify the Commission as soon as possible, as an intervention deadline will be imposed. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. A request for intervention or for further information should refer to Docket No. _____.

SOUTHWESTERN ELECTRIC POWER COMPANY
Compliance with PUC Orders

<u>Docket/Project No. Reference</u>	<u>Summary of Requirement</u>	<u>Reference to Parts of RFP Addressing Requirement</u>
Docket No. 46449, SWEPCO's last base rate case, in Ordering Paragraph No. 10.	SWEPCO shall address the regulatory treatment of any excess deferred taxes resulting from the reduction in the federal-income-tax rate in its next base-rate case.	Direct Testimony of Thomas P. Brice; Direct Testimony of Michael A. Baird

SOUTHWESTERN ELECTRIC POWER COMPANY'S
REQUEST FOR WAIVER OF RFP REQUIREMENTS

Southwestern Electric Power Company (SWEPCO) requests the following waivers of the Commission's Rate Filing Package (RFP) requirements.

First, SWEPCO's application does not comply with the RFP requirements for Schedule N—Energy Efficiency Plan, because energy efficiency costs are no longer covered through base rates, and accordingly those requirements are outdated and moot for SWEPCO.

The RFP was adopted in 1992. Since then, the energy efficiency regime in the Public Utility Regulatory Act¹ § 39.904 and the corresponding Commission rules, 16 Tex. Admin. Code (TAC) § 25.181, have changed significantly. Specifically, PURA and the Commission rules require utilities to file annual energy efficiency plans and reports, and SWEPCO recovers no energy efficiency costs through base rates but has instead migrated all such costs to recovery through its energy efficiency cost recovery factor. SWEPCO is not requesting recovery of any energy efficiency costs in this base rate case and has in fact adjusted its test year costs to remove the energy efficiency costs and revenues. Therefore, the information requested by Schedule N is irrelevant to this case, and SWEPCO requests a waiver of the Schedule N RFP requirements.

Second, SWEPCO requests a waiver of the RFP requirements related to fuel reconciliation and fuel factor schedules. SWEPCO is not filing a fuel reconciliation, nor seeking to change its Fuel Factor. 16 TAC § 25.236 no longer requires that general rate proceedings be accompanied by a fuel reconciliation filing. However, SWEPCO has included information, at test year levels, in schedules related to fuel where it remains applicable to information presented in SWEPCO's base rate case. Base rate fuel items include: fuel inventory, rail car maintenance, fuel handling, Pirkey overheads, and Dolet Hills equity.

¹ PURA is codified at Tex. Util. Code Ann. §§ 11.001–66.016.

SWEPKO requests a waiver of all rate year and historical information required by the following schedules as no fuel reconciliation or fuel factor is being proposed in this case:

Schedule E-3.1	Fuel Oil Burns
Schedule E-3.2	Natural Gas Disruptions
Schedule E-3.3	Coal or Lignite Supply Disruptions
Schedule H-12.1	Supply and Load
Schedule H-12.4b	Firm Purchased Power Energy Costs
Schedule H-12.4e	Non-Firm Purchased Power
Schedule H-12.4f	Non-Firm Purchased Power Energy Costs
Schedule H-12.4g	Non-Firm Purchased Power Energy Costs per MWh
Schedule H-12.5a	Line Losses & System's Own Use
Schedule H-12.5b	Off-System Sales (Economy & Firm)
Schedule H-12.5c	Off-System Sales Revenue (Energy Charge Component)
Schedule H-12.5d	Off-System Sales Revenue (Fixed Charge Component)
Schedule H-12.5e	Off-System Sales Revenue (Energy Charge kWh)
Schedule H-12.5f	On-System Sales (Wholesale and Retail)
Schedule I-1.2	Fuel Burned
Schedule I-1.3	Fossil Fuel Purchased
Schedule I-2	Fuel & Purchased Power Procurement Practices
Schedule I-3	Fuel & Purchased Power Committees
Schedule I-6	Natural Gas Delivery System
Schedule I-7	Natural Gas Storage Description
Schedule I-11	Fuel and Purchased Power Assumptions Narrative
Schedule I-12	Fossil Fuel Mix
Schedule I-15	Fuel Contract Analysis – Reconciliation Period
Schedule I-16	Reconcilable Fuel Costs
Schedule I-16.1	Fossil Fuel Burned Monthly
Schedule I-16.2	Fossil Fuel Mix Purchased Monthly
Schedule I-16.3	Competitive Spot Fossil Fuel Purchases
Schedule I-16.4	Other Spot Fossil Fuel Purchases
Schedule I-19.1	Rail Haul Distance
Schedule I-19.2	Unit Trains
Schedule I-19.3	Cycle Time
Schedule I-19.4	Rail Cars
Schedule I-19.5	Rail Car Leases
Schedule I-19.7	Rail Car Repairs
Schedule I-22	Fuel Cost Over/Under Recovery
Schedule Q-2	Power Cost Recovery
Schedule Q-8.6	Contract Prices

SWEPCO requests a waiver of all rate year and historical information required by the following schedules with the exception of information applicable to the base rate case:

Schedule I-4	Fuel and Fuel-Related Contracts
Schedule I-8	Fuel Properties
Schedule I-9	Employee Organization Charts

Third, Schedule H-11.2 requires power plant maintenance man-hour ratios. However, the only plants that have the ability to report maintenance man-hour ratios are Pirkey and Welsh. Since the data is not available for the other SWEPCO plants, SWEPCO requests a waiver from this RFP requirement for those other plants.

Fourth, SWEPCO belongs to the Southwest Power Pool (SPP) Regional Transmission Organization. SPP uses a flow-based method to determine available transmission capacity, typically referred to as a flow gate. Therefore, the two H schedules listed below are no longer applicable, and SWEPCO requests a waiver of any requirement to provide them:

Schedule H-14.1a	Available Capacity Wheeling
Schedule H-14.1b	Planned Capacity Wheeling

Additionally, since the implementation of the SPP Integrated Market, the following schedules are no longer applicable and SWEPCO requests a waiver of any requirement to provide them:

Schedule Q-8.1	Marginal and Average Cost Schedules
Schedule Q-8.2	Expected Annual Load Duration Curve
Schedule Q-8.3	Rep Marginal and Avg Energy Costs
Schedule Q-8.4	Diurnal Load

Fifth, On June 9, 2020, in Docket No. 50917, SWEPCO filed an application requesting a good cause waiver of the requirement that it file RFP Schedule S and perform the related audit required by Schedule S.² SWEPCO served a copy of its application on all parties to its most recent base rate proceeding, Docket No. 46449.³ Cities Advocating Reasonable

² *Application of Southwestern Electric Power Company for Waiver of Rate Filing Package Schedule S*, Docket No. 50917, Application (Jun. 9, 2020).

³ Docket No. 50917, Proof of Notice Affidavit (Jul. 6, 2020).

Deregulation (CARD) intervened in support of the requested waiver and, on July 31, 2020, Commission Staff recommended that SWEPCO's application be approved.⁴ SWEPCO and Commission Staff filed an agreed proposed notice of approval on August 12, 2020.⁵ No objection to SWEPCO's waiver application has been raised.

Sixth, the RFP instructions contemplate supporting affidavits in conjunction with the form of Schedule W in the RFP. However, the protective order provided in Schedule W allows the utility to designate confidential and highly sensitive materials without supporting affidavits.⁶ Consistent with the proposed protective order, SWEPCO will not submit supporting affidavits unless and until a party seeks public disclosure of confidential materials under the terms of the protective order. A certification by counsel identifying the RFP items designated as confidential or highly sensitive is attached to the protective order in Schedule W.

⁴ *Id.*, Commission Staff's Recommendation on Final Disposition at 1 (Jul. 31, 2020).

⁵ *Id.*, Agreed Proposed Notice of Approval (Aug. 12, 2020).

⁶ *See also*, Investor Owned Utility Transmission & Distribution Cost of Service Rate Filing Package, Instruction No. 14 (2003).

APPLICATION OF SOUTHWESTERN	§	BEFORE THE
ELECTRIC POWER COMPANY FOR	§	PUBLIC UTILITY COMMISSION
AUTHORITY TO CHANGE RATES	§	OF TEXAS

PROTECTIVE ORDER

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face “PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. _____” (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.¹ Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

¹ Tex. Gov’t Code Ann. §§ 552.001-552.353 (West 2012 & Supp. 2016).

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3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.
6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited

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to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;² (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; and (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. _____” (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided in this Protective Order, one copy of Highly Sensitive Protected Materials may be made and kept in the possession of outside counsel for a Reviewing Party and one copy in the possession of the outside consultants having a need to access the materials, except that additional copies may be made to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party shall maintain a record of all copies made of Highly Sensitive Protected Material and shall send a duplicate of the record to the producing party when the copy or copies are made. The record shall specify the location and the person possessing the copy. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a

² Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2016) (PURA).

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general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, the Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) outside counsel for the Reviewing Party, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel or, (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review Highly Sensitive Protected Materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff, OAG, and OPC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as provided in Paragraph 7. The restrictions contained herein do not apply to

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Commission Staff, OPC, and the OAG when the OAG is representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.
11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPC, and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPC and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.

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13. **Restriction on Copying by Commission Staff, OPC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. _____. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such

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material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party shall provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.
17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may

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make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.

18. **Procedures Regarding Voluminous Protected Materials.** 16 Tex. Admin. Code (TAC) § 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.
21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected

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Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPC.

22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.
23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to

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Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.

24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.
25. **Notice of Intent to Use Protected Materials or Change Materials Designation.** Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. _____ at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing

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Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.
27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such

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determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.

28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.
29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.** Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.
30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.

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31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.
32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,³ the Texas Securities Act⁴ and any other applicable law, provided that parties subject to those acts will notify the party asserting

³ Tex. Gov’t Code Ann. § 551.001-551.146 (West 2012 & Supp. 2016).

⁴ Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-43 (West 2010 & Supp. 2016).

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confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing

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Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of §552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33 and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission, OAG, or OPC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party’s argument for non-disclosure shall do so within five working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer

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finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to 16 TAC § 22.161.
38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

ATTACHMENT A

Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. _____. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

Signature

Party Represented

Printed Name

Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

Signature

Party Represented

Printed Name

Date

ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

Signature

Party Represented

Printed Name

Date

ATTACHMENT C

APPLICATION OF SOUTHWESTERN § BEFORE THE
ELECTRIC POWER COMPANY FOR § PUBLIC UTILITY COMMISSION
AUTHORITY TO CHANGE RATES § OF TEXAS

**STATEMENT UNDER SECTION 4 OF THE PROTECTIVE ORDER AND
LIST OF CONFIDENTIAL/HIGHLY SENSITIVE INFORMATION**

Southwestern Electric Power Company's (SWEPCO) filing package includes customer specific information, confidential employee related information, proprietary information, commercially or competitively sensitive information, and/or trade secret information, or information whose public disclosure would be contrary to contractual obligations to which SWEPCO is bound. The public disclosure of this information would harm SWEPCO or third parties with whom SWEPCO must maintain an ongoing business relationship. Therefore, this information is protected under the Public Information Act, Tex. Gov't. Code §§552.101, 552.104, and 552.110, or Tex. Util. Code §32.101(c). The following is a list of schedules, exhibits, and workpapers that include such information, along with the sponsoring witness, the designation of the information, and applicable legal exemption.

Confidential and Highly Sensitive Material

Witness	Exempt Material	Designation	Exempt Under Tex. Gov't Code
Andrew R. Carlin	Testimony Exhibits ARC-10 and ARC-11	Confidential	§§552.101, 552.104, 552.110
David A. Hodgson	Testimony Exhibit DAH-8	Highly Sensitive	§552.101, 552.104, 552.110
Amy E. Jeffries	Schedule E-2.2; WP/Schedule E-2.2; Schedule E-2.3; Schedule E-2.4	Highly Sensitive	§§552.104, 552.110

Michael A. Baird; Andrew R. Carlin	Schedule G-2.3, Attachments 1-5	Confidential	§§552.104, 552.110
David A. Hodgson	Schedule G-7.13e; Schedule G-7.13f; WP/Schedule G-7.13	Highly Sensitive	§552.101, 552.104, 552.110
Monte A. McMahon	Schedule H-6.2a; Schedule H-6.2b; Schedule H-6.2c	Highly Sensitive	§§552.104, 552.110
Monte A. McMahon	Schedule H-12.3a; Schedule H-12.3c	Highly Sensitive	§§552.104, 552.110
Amy E. Jeffries	Schedule I-4; WP/Schedule I-4	Highly Sensitive	§§552.104, 552.110
Amy E. Jeffries	Schedule I-17.1; Schedule I-17.2	Highly Sensitive	§§552.104, 552.110
Renee V. Hawkins	Schedule K-5; Schedule K-6; Schedule K-7	Highly Sensitive	§§552.104, 552.110
Chad M. Burnett	Schedule O-2.1; Schedule O-2.2; Schedule O-9.1; Schedule O-9.2	Highly Sensitive	§§552.101, 552.104, 552.110

I certify that I have reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act or Tex. Util. Code § 32.101(c) and merits the application designation of Confidential (Protected) Materials or Highly Sensitive (Highly Sensitive Protected) Materials detailed in the Protective Order accompanying this Application.

Patrick Pearsall

Date: October 13, 2020